

MEMO ENDORSED

August 8, 2013

BY E-MAIL (sullivanSDNYchambers@nysd.uscourts.gov)

Honorable Richard J. Sullivan
United States District Judge
United States District Court
Southern District of New York
500 Pearl St., Room 615
New York, NY 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 8-9-13

Re: *Roche Diagnostics GMBH et al. v. Enzo Biochem, Inc. et al.*
No. 04 CV 4046 (RJS) (S.D.N.Y.)

Dear Judge Sullivan:

This letter is submitted jointly on behalf of all parties in the above referenced matter—Enzo Biochem, Inc., Enzo Life Sciences, Inc., Roche Diagnostics GmbH, and Roche Molecular Systems, Inc.—to respectfully request a modest extension of the fact discovery deadline.¹


Under the Court's February 7, 2013 Scheduling Order, the parties are required to complete all fact discovery, including depositions, by August 30, 2013. (Dkt. No. 99, ¶ 7(d)). Scheduling depositions in the month of August has been complicated by the vacation and summer plans of the noticed individuals. Furthermore, the parties are continuing to work together to ascertain the whereabouts and availabilities of several former employees and third parties with potential knowledge relevant to the '830 and '523 patent claims and defenses, to negotiate the scope and content of further document productions concerning the accused technology, and to provide supplemental interrogatory responses. An extension of fact discovery would allow the parties to continue their efforts in that regard and also avoid the need to upset the deponents' vacation and summer plans. The proposed extension will not have any impact on other scheduled dates, given that the parties propose to complete depositions in parallel with the claim construction process, including the September 20, 2013 meet and confer to determine which claim terms and phrases the Court may need to construe. (Dkt. No. 99, ¶ 10(a)).

Accordingly, the parties jointly request that the Court grant their application for an extension of the fact discovery deadline until September 30, 2013.

Respectfully submitted,

SO ORDERED

Dated: 8-9-13


RICHARD J. SULLIVAN
U.S.D.J.

¹ There have been no previous requests for adjournment or extension of the fact discovery deadline in connection with the parties' '830 and '523 patent claims and defenses.

Honorable Judge Richard J. Sullivan
August 8, 2013
Page 2

By: /s/ Scott J. Bornstein

Scott J. Bornstein
GREENBERG TRAURIG, LLP
MetLife Building
200 Park Avenue
New York, NY 10166

*Attorney for Enzo Biochem, Inc. and Enzo Life
Sciences, Inc.*

By: /s/ Robert J. Gunther, Jr.

Robert J. Gunther, Jr.
WILMERHALE LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007

*Attorney for Roche Diagnostics GmbH and
Roche Molecular Systems, Inc.*